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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,605	11/21/2003	Mitchell A. Friedman	009053/00022	3126
25223	7590	11/07/2005		
WHITEFORD, TAYLOR & PRESTON, LLP ATTN: GREGORY M STONE SEVEN SAINT PAUL STREET BALTIMORE, MD 21202-1626			EXAMINER TRIEU, THERESA	
			ART UNIT 3748	PAPER NUMBER

DATE MAILED: 11/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

TAM

Office Action Summary

Application No.

10/719,605

Applicant(s)

FRIEDMAN, MITCHELL A.

Examiner

Theresa Trieu

Art Unit

3748

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date July 9, 2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Priority

1. Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. ***Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by any one of Knedlik (Patent Number 3,179,383) or Zepp (Patent Number 5,012,837) or Watanabe (Publication Number JP56-014889).***

Regarding claim 1, Knedlik (as shown in Figs. 1-4) or Zepp (as shown in Figs. 1-10) or Watanabe (as shown in Figs. 1-3) discloses a blending pump comprising:

a fluid motor having a rotatable motive element (26 in Knedlik; 24 in Zepp; 1 in Watanabe) positioned within an open chamber on an interior of the fluid motor, fluid inlet and outlet ports (62, 70 in Knedlik; 48, 50 in Zepp; in 8, 9 Watanabe) in fluid communication with the open chamber (64 in Zepp; not numbered; however, clearly seen in Fig. 2 in Watanabe), and a drive axle (40 in Knedlik; 66 in Zepp; 3 in Watanabe) affixed to the rotatable motive element and extending through the fluid motor;

Art Unit: 3748

a fluid pump having a rotatable motive element (28 in Knedlik; 26 in Zepp; 2 in Watanabe) positioned within an open chamber on an interior of the fluid pump, and fluid inlet and outlet ports (76, 78 in Knedlik; 56, 58 in Zepp; 10, 4 in Watanabe) in fluid communication with the open chamber (92 in Zepp), the rotatable motive element of the fluid pump being operatively engaged to the drive axel (40 in Knedlik; 66 in Zepp; 3 in Watanabe). Note that in claim 1, the limitation “such that torque generated by the rotatable motive elementto the rotatable motive element in the fluid pump” and “wherein the rotatable motive element of the fluid motor configured to enable fluid flow through the fluid motor and the fluid pump without leakage of fluid around the rotatable motive elements” are an functional implication/intended use. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 312 F.2d 937, 939, 136 USPQ 458, 459 (CCPA 1963).

Prior Art

The IDS (PTO-1449) filed on July 9, 2005 has been considered. An initialized copy is attached hereto.

The prior art made of record and not relied upon is considered pertinent to applicant's multiple chamber gear pump with hydraulically connected chambers.

Art Unit: 3748

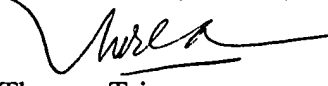
Communication

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa Trieu whose telephone number is 571-272-4868. The examiner can normally be reached on Monday-Friday 8:30am- 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion can be reached on 571-272-4859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TT
November 1, 2005



Theresa Trieu
Primary Examiner
Art Unit 3748